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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,083	12/04/2001	Frank Schwandner	001-035A	8582

7590 05/14/2003

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EXAMINER

KIM, AHSHIK

ART UNIT PAPER NUMBER

2876

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/005,083	SCHWANDNER, FRANK
	Examiner	Art Unit
	Ahshik Kim	2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12/04/01 (Initial filing of application).

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-14 and 16-20 is/are rejected.

7) Claim(s) 15 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 14 December 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

*Specification*

1. The abstract of the disclosure is objected to because of following informalities:

5 Re abstract, line 18: substitute "RF" with --RF (Radio Frequency)--.  
Appropriate correction is required.

*Claim Objections*

2. Claim 5 is objected to because of the following informalities:

10 Re claim 5, line 3: substitute "elastomeric" with --elastomeric product--.  
Appropriate correction is required. Applicant is respectfully suggested to check for other  
typos or informalities in the application.

*Claim Rejections - 35 USC § 102*

15 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the  
basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

20 (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed  
in the United States before the invention by the applicant for patent or (2) a patent granted on an application for  
patent by another filed in the United States before the invention by the applicant for patent, except that an  
international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this  
subsection of an application filed in the United States only if the international application designated the United  
States and was published under Article 21(2) of such treaty in the English language.

25 3. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Epstein (US  
6,478,229).

Re claims 1 and 7-9, Epstein teaches a data system comprising an elastomeric product (or sleeve) 4, having a receiving portion cured therein; a transponder circuit 16, which further includes an integrated circuit chip 18 and antenna coil 20 (col. 1, lines 11+; col. 2, lines 58+). The transponder circuit 16 is sealed between upper layer and lower layer of the tape. The tape 5 can be produced utilizing various polymeric materials such as polyethylene, polypropylene, and other polymer (col. 3, lines 49+) that are thin and flexible. According to definition in Merriam-Webster's Collegiate Dictionary (10<sup>th</sup> edition), "elastomer" or "elastomeric" is defined as "any of various elastic substances resembling rubber". Therefore, it is the Examiner's view that polymeric substances mentioned above, to some extents, possess elastic characteristics.

10 Re claims 2 and 3, the identification data tag 16 works in coordination with interrogating station/terminal (col. 1, lines 29+), which retrieves and/or updates product information (col. 4, lines 1+).

Re claims 4-6, 10, and 13, the upper layer 4 and lower layer 6 are laminated together after the chip 16 had been placed between the layers.

15 Re claim 11, since the upper layer and lower layer is approximately 0.0025 inches respectively (col. 3, lines 40+).

Re claims 12 and 14, the sleeve further contains a plurality of fibers or yarns 8 going about in all directions (col. 2, lines 45+).

20 *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

5 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16- 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleinfelter (US 6,386,772) in view of Mish et al. (US 5,986,569).

10 Kleinfelter teaches a data system (see figure 2) and the method of manufacturing a spun material comprising a sleeve 14, a transponder circuit 15 further comprising a circuit chip 92, a small wire loop antenna 90, and transmitter/receiver circuit 94 for communicating with host device or electronic data logging device (col. 3, lines 47+). The RF tag 15 is attached to the sleeve 14.

15 Kleinfelter fails to specifically teach or fairly suggest that the sleeve contains a pocket for storing a transponder tag.

Mish teaches a radio frequency identification system comprising a RF identification tag and a pocket containing the tag, contains an adhesive layer adhered to the rear panel of the pocket (See abstract; col. 3, lines 60+). Obviously, the tag can be detached and reusable.

20 Both Kleinfelter and Mish disclose a RF identification tag and the method of attaching the tag to an object to be identified and kept track of. It is the Examiner's view that integrating the tag to an object and releasably attaching tag are functionally equivalent. Accordingly, one ordinary skill in the art would choose either method suitable for one's own application. For example, if cost of tag is the main concern, and thus, the tags need to be recycled, then use of adhesive and pockets may be a better alternative. Or in some other embodiments, ensuring that 25 the tag is attached to the item throughout the manufacturing process is crucially important.

Then the tag may be embedded or integrated to the object. Selection one method over the other does not produce any unexpected results.

***Allowable Subject Matter***

5 5. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: the claims are directed at a transponder moveably implanted into a pocket on a spindle sleeve. As 10 disclosed in the references to Kleinfelter and Epstein, identifying sleeve or identifying contents in the sleeve is well known in the art. However, the references, taken alone or in combination, fails to suggest or teach a particular structure wherein the sleeve comprises a toothed profile as set forth in the claims.

***Conclusion***

15 I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Lane et al. (US 5,983,799); Wiklof et al. (US 6,147,604); Monson (US 5,939,977); Bunyan et al. (US 6,521,348); Bradford et al. (US 5,908,135); Dicken et al. (US 5,441,212); Robertz et al. (US 6,206,292); Santos et al. (US 6,555,181) disclose various sleeve and spindle and identification system used with the sleeve/spindle.

20 II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (703)305-5203. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

25 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax number directly to the

Application/Control Number: 10/005,083

Art Unit: 2876

Examiner is (703) 746-4782. The fax phone number for this Group is (703)308-7722, (703)308-7724, or (703)308-7382.

7724, or (703)308-7382.  
Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov]. *will be made of record in the application file. PTO*

5 addressed to [ahshik.kim@uspto.gov].  
All Internet e-mail communications will be made of record in the application file. PTO  
employees do not engage in Internet communications where there exists a possibility that  
sensitive information could be identified or exchanged unless the record includes a properly  
signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly  
set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and  
10 Trademark on February 25, 1997 at 1195 OG 89.  
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

15 

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20 May 6, 2003

  
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